

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

**In re**

<b>Wireless Telecommunications Bureau</b>	)	
<b>Seeks Comment on Proposal to Revise</b>	)	<b>RM-10586</b>
<b>Multichannel Multipoint Distribution</b>	)	<b>DA 02-2732</b>
<b>Service and the Instructional Television</b>	)	
<b>Fixed Service Rules</b>	)	

**COMMENTS OF CLEARWIRE TECHNOLOGIES, INC.**

Clearwire Technologies, Inc. ("Clearwire"), by its attorneys and pursuant to the invitation extended by the Federal Communications Commission ("FCC" or "Commission") in the Public Notice released by the FCC in the above referenced matter on October 17, 2002, hereby submits its comments supporting the "White Paper" submitted by the Wireless Communications Association ("WCA"), the National ITFS Association ("NIA") and the Catholic Television Network ("CTN," and together with the WCA and NIA, the "Proponents") to the FCC on October 7, 2002. The Proponents suggest substantial changes to the regulations that govern the Multipoint Distribution Service ("MDS") and Instructional Television Fixed Service ("ITFS"). These proposals represent an industry consensus developed through extensive consultation and cooperative effort. The Commission should expeditiously incorporate these proposals into a Notice of Proposed Rulemaking ("NPRM").

***Background***

Clearwire, founded in 1998, is headquartered in Dallas, Texas. Clearwire provides high-speed Internet access and data services using broadband wireless technology. After extensive testing of second generation non-line of sight technology developed for the 2.5 GHz MDS/ITFS

band, Clearwire recently announced that it will launch commercial service in a major U.S. market in January 2003. Clearwire's launch will be the first commercial deployment of second generation broadband wireless technology in a major market in the United States.

Clearwire currently leases ITFS spectrum in over twenty (20) markets across the United States<sup>1/</sup> and, after the planned introduction of commercial services in January, 2003, intends to provide broadband wireless services in additional markets using licensed ITFS and MDS spectrum. Because Clearwire's proposed services rely on the use of MDS and ITFS spectrum, Clearwire participated extensively in the development of the proposals contained in the White Paper and is pleased to have this opportunity to submit the following Comments.<sup>2/</sup>

### ***Comments***

As the Proponents accurately note, it has been over four (4) years since the FCC initially adopted rules designed to permit ITFS and MDS licensees to offer two-way broadband voice, and data services.<sup>3/</sup> Since that time, advances in technology and early attempts to deploy broadband services using first generation technology have highlighted the pressing need for the FCC to revisit the regulations that govern the MDS and ITFS spectrum to allow licensees and

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<sup>1/</sup> A key part of Clearwire's strategy is its strategic relationship with the Instructional Television Fixed Service Spectrum Development Alliance ("ITFS Alliance"), of which HITN is a member, first publicly announced in April 2001. Clearwire, *Clearwire receives \$97 Million in Financing; New Capital and Partnership Support Fixed Wireless Company's National Rollout, Entry Into Licensed Spectrum Services*, Press Release (Apr. 19, 2001).

<sup>2/</sup> Clearwire already expressed its support for the proposals contained in the White Paper. See letter from James A. Kirkland, Senior Vice President, Spectrum Development and General Counsel to Thomas J. Sugrue, Chief, Wireless Telecommunications Bureau, October 15, 2002 (the "Kirkland Letter"). Clearwire asks that the Kirkland Letter be included by reference in the record of this proceeding.

<sup>3/</sup> See *In the Matter of Amendment of Parts 21 and 74 to Enable Multipoint Distribution Service and Instructional Television Fixed Service Licensees to Engage in Fixed Two-Way Transmissions*, 13 FCC Rcd 19112 (1998), recon., 14 FCC Rcd 12764 (1999), further recon., 15 FCC Rcd 14566 (2000).

others the ability to quickly and efficiently provide service to the public employing this spectrum. Accordingly, Clearwire supports the White Paper proposals and urges the FCC to expeditiously adopt a NPRM addressing matters related to the use of frequencies allocated to the MDS and ITFS spectrum.

Clearwire is member of the WCA and its Government Relations Committee and has been actively involved in the preparation of the White Paper. Having worked within the framework of the current rules in preparation of its anticipated introduction of commercial services, Clearwire knows well that the present regulations substantially burden the efforts of those entities, like Clearwire, that intend to use the MDS/ITFS spectrum to provide advanced broadband services to the public. In many instances, the current rules impose nearly insurmountable barriers to the rapid deployment of services to the public. Therefore, the FCC should use the White Paper as a basis for proposing changes to its regulations and should proceed to change its regulations as quickly as possible.

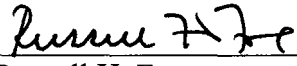
Clearwire recognizes that the changes proposed by the White Paper are complex. However, it believes that the White Paper approach satisfies the needs of entities that will continue to employ the spectrum for high-power “big stick” video operations and those entities that wish to more fully deploy the band to offer the broadband services that the FCC envisioned would be provided in the bands several years ago. The changes envisioned by the White Paper will also require time to implement. Therefore, the FCC should expeditiously adopt and issue an NPRM proposing to adopt new regulations based on the White Paper approach.

***Conclusion***

Clearwire hereby submits the foregoing Comments and urges the FCC to act in a manner consistent with the views expressed herein.

Respectfully submitted,

**CLEARWIRE TECHNOLOGIES, INC.**

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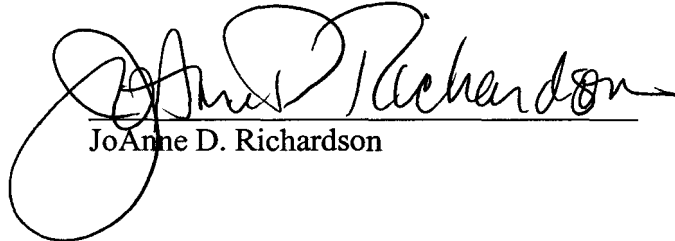
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November 14, 2002

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## CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was sent via messenger on this 14<sup>th</sup> day of November, 2002, to the following parties.



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